Supreme Court, U.S.
FILED
NOV 7 1985
JOSEPH F. SPANIOL, JR.
CLERK

No. 85-362 (2)

In the Supreme Court of the United States

OCTOBER TERM, 1985

CALIFORNIA STATE LANDS COMMISSION,
PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE RESPONDENTS IN OPPOSITION

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14 pp

QUESTION PRESENTED

Whether the State of California's action, brought in 1979, to quiet title to the historic bed of the Yuba River, was barred by the 12-year statute of limitations of the Quiet Title Act, 28 U.S.C. 2409a(f), when the State knew in the early 1900's that the United States took title by deeds naming the United States as the sole grantee.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A1-A7) is reported at 752 F.2d 393. The order of the district court (Pet. App. A10-A14) is unreported.

JURISDICTION

The judgment of the court of appeals (Pet. App. A9) was entered on January 21, 1985, and a petition for rehearing was denied on May 3, 1985 (Pet. App. A8). On July 18, 1985, Justice Rehnquist extended the time for filing a petition for a writ of certiorari to and including August 31, 1985, and the petition was filed on August 30, 1985. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

The land at issue in this case lies in the bed of the Yuba River as it existed at the time of California's admission to the Union in 1850. The State asserts that the river was navigable at that time and that therefore the riverbed constitutes state sovereign lands under the Equal Footing Doctrine. The Yuba River is a tributary of the Sacramento and Feather Rivers, and the area drained by this system was the site of intensive goldmining in the last half of the nineteenth century. Mining companies in this area employed the hydraulic mining technique, which used water sprayed under great pressure to dislodge gold-bearing soil and rocks from the hillsides above the rivers. This technique produced great quantities of debris that flowed into the river system. The material flowing into the Yuba River, in particular, had devastating consequences downstream; the debris began to fill up the channel of the river and was deposited on the adjacent lands, destroying its use for farming and causing disastrous floods. The debris also flowed into the Sacramento and Feather Rivers, impeding their navigability.

This situation led to a bitter conflict between the mining interests on the one hand, and the landowners and communities downstream, on the other. The State's attempt to regulate mining debris by statute was struck down by the California Supreme Court in 1881 as contrary to the state constitution. *People* v. *Parks,* 58 Cal. 624, 638-639 (1881). Private nuisance actions were more successful and resulted in an injunction against the use of hydraulic mining unless the mining companies were able to develop techniques for preventing the damage. *Woodruff* v. *North Bloomfield Gravel Mining Co.,* 18 F. 753, 809 (C.C.D. Cal. 1884). Although some such techniques were developed (see *United States* v. *North Bloomfield Gravel Mining Co.,* 53 F. 625 (C.C.N.D. Cal. 1892)), all interested parties, including the State, wanted a more stable administrative process for

resolving the conflict and therefore appealed to the federal government. See *North Bloomfield Gravel Mining Co.* v. *United States,* 88 F. 664, 671-672 (9th Cir. 1898).

In response, Congress passed the Caminetti Act, which created a federal agency called the California Debris Commission. The Commission is staffed by the United States Army Corps of Engineers. 33 U.S.C. 661. The statute placed all hydraulic mining in this area under the authority of the Commission, which was authorized to permit hydraulic mining under conditions that protected navigable waters and to build restraining works above the head of navigation to contain the debris and restore the navigability of affected streams. 33 U.S.C. 663, 664, 685. An 1898 amendment authorized the Secretary of the Army to enter into agreements under which the State of California would bear one-half of the costs associated with the construction of the restraining works. 33 U.S.C. 686. In complementary legislation, the State created the post of Debris Commissioner, who was directed to consult with and advise the federal commission; the state also appropriated $250,000 for the express purpose of construction of restraining works and purchase of land for the project. 1893 Cal. Stat. 339 *et seq.*; 1897 Cal. Stat. 169 *et seq.* (Pet. App. 44a-50a).

After study of the problem, the Commission submitted the "Vischer Report" to Congress in 1900 recommending the construction of a series of barriers across the bed of the Yuba River and the construction of a settling basin to prevent the debris from flowing further downstream (E.R. 113-115, 165).[1] The report stated that the proposal required the acquisition of property within the area where the impounding works would be built (*ibid.*). Although California contributed one-half of the acquisition costs, the

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[1]"E.R." refers to the excerpt of record filed in the court of appeals.

series of deeds executed between 1900 and 1901 conveyed the property to only a single grantee, the United States (E.R. 114).[2]

As the court of appeals noted (Pet. App. A5), the State conceded below that it was fully aware at the time of the conveyances that the deeds named only the United States as the grantee (see E.R. 173; Appellant's Opening Brief 12-13). The undisputed facts demonstrated that the Debris Commissioner, California's representative, worked closely with the federal commission and reviewed and approved all of the deeds (E.R. 116-118, 167-168, 172-173, 280, 300-301). Moreover, California was aware from a subsequent transaction that the United States considered itself the exclusive owner. In 1911, the federal commission decided to sell some of the land because it was no longer needed, and was authorized to do so by Congress; the 1912 report of the California State Engineer acknowledged that the Secretary of War had made the conveyance and had kept the entire proceeds for credit to the United States' appropriation under the Caminetti Act rather than remitting one-half to the State (E.R. 172-178, 339).

In 1970, the Corps of Engineers, intending to proceed with the Marysville Reservoir Project, asked the State Lands Commission whether the State claimed that the bed of the Yuba River was navigable in 1850 and therefore a sovereign land of the State (E.R. 158-159, 230). The State responded in the affirmative. In 1978, when the State threatened litigation, the Corps told the State Lands Commission that the United States believed that the river had not been navigable in 1850 and that therefore the United States held fee title to the riverbed by virtue of the deeds executed in the early 1900's (E.R. 225-227).

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[2]The deeds typically quitclaimed the surface interest to the United States while reserving mineral rights in the grantor (E.R. 114).

The State then brought its quiet title action against the United States, several federal officials, and a private corporation, Yuba Goldfields, Inc. and its officers, who were alleged to claim reserved mineral rights in some of the property. The district court initially rejected the federal defendants' defense that the 12-year statute of limitations had run, concluding that the limitation period could not run against a state. Following this Court's decision in *Block* v. *North Dakota*, 461 U.S. 273 (1983), the court reconsidered its ruling and granted summary judgment for the federal defendants, holding that the State's claim accrued in the early 1900's when California had actual knowledge that the property was acquired by deed in the name of the United States alone (Pet. App. A11-A12). A unanimous court of appeals affirmed, agreeing with the district court that the undisputed facts established California's actual knowledge of the claim of the United States in the early 1900's (Pet. App. A5-A7).

ARGUMENT

The decision of the court of appeals is correct and does not conflict with any decision of this Court or any other court of appeals. Review by this Court is therefore not warranted.

1. a. Contrary to the State's claim (Pet. 8-9), the court of appeals' conclusion that the United States' interest was sufficiently "clear" and "independent" of California's claim to trigger the statute of limitations does not depart from the holdings of other courts of appeals. For example, in *Knapp* v. *United States*, 636 F.2d 279 (1980), cited by petitioner (Pet. 8-9), the Tenth Circuit held plaintiffs' action accrued when plaintiffs' attention was directed to a deed that granted land to the United States and was inconsistent

with plaintiffs' claim. 636 F.2d at 283.[3] Moreover, in another case, not cited by petitioner, the Fifth Circuit also held that the extent of a grant to the United States in a deed known to plaintiffs gave notice of the United States' claim. *Hart* v. *United States,* 585 F.2d 1280, 1283, cert. denied, 442 U.S. 941 (1979). Similarly, in this case, the deeds, of which the State was undisputably aware, named the United States as the sole grantee and were thus patently inconsistent with exclusive ownership by California under the Equal Footing Doctrine.[4]

Petitioner relies on the court of appeals' statement that "[n]either the language of the statute nor the legislative history of the Act requires a showing of adversity" (Pet. App. A6). The court concluded, however, that the United States' interest was "clear" and "independent of any claim California may have had" (Pet. App. A6-A7). In light of this holding, the court's remark about "adversity" was nothing more than a rejection of California's argument that there

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[3]In the other cases cited by petitioner, there was no issue concerning the incompatibility of the claims of the plaintiff and the United States. See *D.C. Transit System, Inc.* v. *United States,* 717 F.2d 1438 (D.C. Cir. 1983) (both parties claimed the fee); *United States* v. *Bedford Associates,* 657 F.2d 1300 (2d Cir. 1981), cert. denied, 456 U.S. 914 (1982) (conflict between United States as leaseholder and a bank as a lienholder).

[4]The fact that the purpose of the acquisitions may have been to "clear out" private mining claims does not change the fact that the chosen means to achieve that purpose was for the United States to take title to the land and for the private parties to hold only reserved mineral rights. Nowhere was any interest of California reserved, as the State well knew at the time. And beyond any doubt, California knew by 1912 that the United States regarded itself as the exclusive owner of the land since the State acknowledged that the Secretary of War had sold some of the property and kept the proceeds. Indeed, as early as 1920, the California Supreme Court held that these deeds granted a fee interest to the United States. *Yuba Investment Co.* v. *Yuba Consolidated Gold Fields,* 184 Cal. 469, 474-477, 194 P. 19, 22-23 (1920).

must be a showing of a "truly adverse" and hostile dispute about the property before the statute of limitations can begin to run. Here, the court correctly ruled that actual notice that the United States had deeds to the property in its name alone and had treated the property in a manner inconsistent with any ownership interest in California was notice of a claim sufficiently adverse to trigger the limitations period.

b. Similarly inaccurate is petitioner's claim (Pet. 9) that the court of appeals erroneously excused the United States from communicating its claim directly to the State in clear and unambiguous terms. The proper question is what California knew or should have known regarding the United States' claim. This inquiry cannot ignore knowledge gained from sources other than direct communication between the parties, and no case of which we are aware holds to the contrary. All that petitioner's authorities hold is that the particular documents relied on by the United States as giving notice in those cases were not sufficient to apprise other parties of the United States' claim. See *D.C. Transit System, Inc.* v. *United States,* 717 F.2d 1438 (D.C. Cir. 1983); *Poverty Flats Land & Cattle Co.* v. *United States,* 706 F.2d 1078 (10th Cir. 1983).[5] The fact that the court

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[5]Nor is *Deakyne* v. *Department of the Army Corps of Engineers,* 701 F.2d 271 (3d Cir.), cert. denied, 464 U.S. 818 (1983) (see Pet. 9-10) in conflict with the decision below. In *Deakyne,* the court remanded for the district court to consider whether the passage of a federal statute that purported to convey a fee interest in property *adjacent to the property in dispute* gave constructive notice of the United States' interest to other parties claiming a fee in the disputed property. 701 F.2d 275-276. The court noted that it "would not hesitate to charge with such notice a claimant to land actually coveyed by such an Act." 701 F.2d at 276 n.9. Plainly, that court would rule against California here, where the State had undisputable actual knowledge of conveyances that were inconsistent with its claim.

below reached an opposite conclusion on wholly different facts, a conclusion we submit is obviously correct, does not show a conflict among the circuits.[6]

c. There is also no merit to petitioner's argument (Pet. 10-11) that the court below incorrectly rejected the State's reliance on state law provisions. First, it is clear that the proper construction of 28 U.S.C. 2409a, including its limitation period, is a matter of federal, not state, law. *United States* v. *Bedford Associates,* 657 F.2d 1300, 1316 (2d Cir. 1981), cert. denied, 456 U.S. 914 (1982); *Amoco Production Co.* v. *United States,* 619 F.2d 1383, 1387 (10th Cir. 1980). The proper role of state law, so long as it is not contrary to a federal rule, is its relevance to the question whether a party operating under state law should have known of a particular fact See *Amoco Production Co.* v. *United States,* 619 F.2d at 1387; *King* v. *United States,* 585 F.2d 1213, 1217 (4th Cir. 1978). Here, the only state law cited by California

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[6]The State also makes a belated attack on the factual basis for the conclusion of the courts below, asserting (Pet. 4-5, 10 n.4) that two brief letters exchanged by state officials in 1904 showed an understanding of all parties, including the United States, that the land was jointly owned. These documents were not produced until the State filed its petition for rehearing despite the fact that the certification of the Secretary of State for California (Pet. App. A25) indicates they were available to the State on May 14, 1984—the day before oral argument in the court of appeals and eight full months before the filing of the petition for rehearing. In any event, nothing in these papers undermines the court of appeals' decision. The letters contain brief references to "joint ownership of property," but they do not explain what property is being referred to, or even that it is real property, much less the land in dispute here. Moreover, even if there had been an "understanding" that the property would be held jointly, the recognition that the United States had even a half-interest is notice that the United States had a claim inconsistent with the claim of exclusive ownership California asserts here. Finally, all doubt should be laid to rest by the fact that subsequent to these letters, the Secretary of War sold some of this property and kept the proceeds. As the court of appeals concluded (Pet. App. A6), California's undisputed awareness of this fact conclusively refutes its claim.

(Pet. 10 n.5) is a provision apparently exempting the State from the rule that recordation of deeds provides constructive notice of the contents of the deeds. This rule has no relevance to this case, where notice to California was based on the State's *actual knowledge* of the contents of the deeds.

2. Finally, the decision below will not have the untoward practical consequences that petitioner claims. There is no reason to expect a serious impact on federal-state projects that involve the acquisition of land. The United States agrees that such cooperative efforts are highly desirable, but petitioner's fear that the states will be reluctant to participate in them is plainly exaggerated. The decision below does not bar state claims to property in which the United States claims an interest. It only prevents tardy litigation of a claim that accrued many decades ago. As for the future, states desiring protection of their interests when they enter into joint undertakings with the federal government need only seek prompt resolution of disputed claims.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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NOVEMBER 1985

DOJ-1985-11